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**February 16, 2007**

# H.R. 976 – Small Business Tax Relief Act of 2007

## Floor Situation

H.R. 976 was introduced by Chairman Rangel and Ranking Member McCrery on February 9, 2007.

On February 12, 2007, the Ways and Means Committee considered the legislation. An Amendment in the Nature of a Substitute making clerical changes was approved by voice vote and then the underlying bill was agreed to by voice vote.

H.R. 976 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage.

H.R. 976 is expected to be considered on the floor on February 16, 2007.

## Background

On January 10, 2007, the House of Representatives passed H.R. 2, the Fair Minimum Wage Act of 2007. This legislation would increase the federal minimum wage by $2.10, from $5.15 to $7.25.

In the Senate, a minimum wage increase of the same amount passed on February 1, 2007. Unlike the House version, the Senate included a number of tax provisions primarily aimed at providing relief for small businesses along with offsetting revenue increases.

One of the larger issues in the debate over increasing the minimum wage is whether an increase should be combined with tax relief for small businesses. Many Republicans have been concerned that increasing the minimum wage without additional protections for small businesses will lead to job losses.

In the 109th Congress, the House of Representatives passed an increase in the minimum wage from $5.15 to $7.25 as part of H.R. 5970, the Estate Tax and Extension of Tax Relief Act of 2006. This legislation paired a minimum wage increase with other tax relief provisions, perhaps most notably permanent death tax relief. This legislation did not pass the Senate because it did not have the required 60 votes to invoke cloture.

When H.R. 2 was considered on the floor of the House of Representatives during this Congress, a Republican-offered Motion to Recommit would have, in addition to the federal minimum wage increase, established Association Health Plans (AHPs), increased expensing for small businesses, reduced new restaurant construction depreciation to 15 years from 39 years for investments made through 2007, and provided for the early elimination of the Federal Unemployment Tax Act (FUTA). Representative McKeon also introduced legislation to this effect (H.R. 324) on January 9, 2007.

Under the rule adopted to provide for consideration of H.R. 2, no amendments were made in order. This Motion to Recommit was ruled non-germane, with a motion to appeal the ruling of the Chair tabled by a vote of 232 to 197 (roll call vote 16).

H.R. 976 is being considered as legislation to pave the way toward a final bill that includes small business tax relief with the minimum wage increase.

**Summary**

Small Business Provisions

H.R. 976 includes a number of changes to the tax code that are intended to help small businesses. The bill specifically:

- **Extends and modifies the work opportunity tax credit for one year.** Under current law, the work opportunity tax credit expires after December 31, 2007. This provision extends the work opportunity tax credit through December 31, 2008.

  Under current law, the work opportunity tax credit is available for employers who hire certain, qualified employees including: a member of a TANF-receiving family, a veteran who is a member of a family receiving assistance from the food stamp program, an ex-felon, an individual at least 18 but not yet 25 who resides in an empowerment zone (or an enterprise community or a renewal community), a vocational rehabilitation referral, a qualified summer youth employee, a qualified food stamp recipient, a qualified SSI recipient, or a long-term family assistance recipient.

  The credit is 40 percent of first-year wages for the first $6,000 in wages, except for qualified youth employees where the credit applies up to $3,000. For long-term family assistance recipients, the credit applies to 40 percent of the first $10,000 for first-year wages and 50 percent of the first $10,000 for second-year wages.

  H.R. 976 would modify the work opportunity tax credit to change coverage for "high risk youth" to also include individuals who are 18 to 39 years of age. This category is renamed as applying to "designated community residents." For disabled veterans, the work opportunity tax credit would apply within a year of discharge or if the disabled veteran has been unemployed for at least 6 out of the last 12 months. For disabled veterans who have coverage under the work opportunity tax credit with this change in coverage as provided by H.R. 976, the tax credit is applied up to $12,000 in first-year wages (as opposed to $6,000 in current law).

The Tax Relief and Health Care Act, H.R. 6111 from the 109th Congress, extended the work opportunity tax credit through 2007. It also folded the welfare to work tax credit into the work opportunity tax credit.

**Joint Committee on Taxation (JTC) projected score:** This provision lowers revenue as compared to current law by $695 million from 2007 to 2017.

**Note: The Senate-passed version of the minimum wage extends the work opportunity tax credit through 2012. H.R. 976 differs from the Senate version in terms of the work opportunity tax credit coverage for disabled veterans. The Senate version applies only to disabled veterans who became disabled after 9/11/01.* (Section 2)

- **Increases and extends expensing for small businesses.** Under current law, small businesses may expense up to $112,000 of investments in depreciable assets. The deduction is currently phased out when investments exceed $450,000 (indexed for inflation). After 2009, the deduction is set to decline to $25,000 and the phase-out threshold is set to decline to $200,000.

  This legislation increases the deduction to $125,000 and increases the phase-out threshold to $500,000, indexes these amounts for inflation beginning in 2008 through the end of 2010, and extends the higher deduction and phase-out threshold through 2010.

  **JTC projected score:** This provision lowers revenue as compared to current law by $68 million from 2007 to 2017.

  **Note: The deduction was set at $100,000 with the phase-out at $400,000 in 2003. The deduction has increased to $112,000 with a phase-out of $450,000 in 2007 because of inflation.*

  *The Senate-passed version of the minimum wage increase also extended the business expensing relief for one additional year – through 2010 – but kept the deduction at $112,000 and the phase-out threshold at $450,000.* (Section 3)

- **Prevents reduction in tax credit for Social Security taxes paid with respect to employee cash tips.** Under current law, a tax credit is provided to an employer for employer-paid FICA taxes for tips an employee receives that exceed the minimum wage.

This provision calculates this tax credit based on the federal minimum wage as of January 1, 2007. The impact of this provision is to prevent the value of the tax credit from being reduced if the minimum wage increases.

**JTC projected score:** This provision is projected by the Joint Committee on Taxation as having no revenue effect. The reason for this is that the provision is scored assuming the current minimum wage of $5.15 remains in effect. If the minimum wage increase as contained in H.R. 2 were to become law, JTC scores this provision as reducing revenues by $457 million over 10 years as compared to what would otherwise be the case. (Section 4)

- **Waives the individual and corporate minimum tax with regard to the work opportunity tax credit and the credit for taxes paid for employee cash tips.**

  **JTC projected score:** This provision lowers revenue as compared to current law by $552 million from 2007 to 2017. (Section 5)

- **Family business tax simplification.** The measure allows a husband and wife joint venture to elect to not be treated as a partnership for tax purposes.

  **JTC projected score:** This provision has a "negligible revenue effect" according to the Joint Committee on Taxation. (Section 6)

<u>Provisions that Raise Revenue</u>
H.R. 976 offsets the cost of these provisions with a number of changes that raise revenue:

- Denies lowest maximum capital gains tax rate (5 percent in 2007, zero percent in 2008 through 2010) for dependents under the age of 24 who do not provide more than half of their own income.

  The intent of this provision is to prevent wealthy parents from avoiding capital gains taxes by transferring assets to a dependent child.

  **JTC projected score:** This provision increases revenue by $874 million from 2007 to 2017. (Section 7)

- Extends from 18 to 22 months the amount of time that interest and penalties accrue for unpaid taxes if the IRS has not sent notice of the taxpayer's liability.

  **JTC projected score:** This provision increases revenue by $506 million from 2007 to 2017. (Section 8)

- Increases corporate estimated tax payments for corporations with assets of $1 billion or more from 106.25 percent to 112.75 percent. (Section 9)

**JTC projected score:** This provision is scored as having no net effect on revenue for the 2007 to 2017 period. It has the impact of reducing revenue by $4.026 billion in 2012 and decreasing revenue by $4.026 billion in 2013. This allows the bill to comply with "PAYGO" as scored for both a five and ten year period.

**Staff Contact**

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